

### REMARKS

The above-captioned patent application was filed with 28 claims. Claims 27 and 28 have been allowed. Claims 5 through 8, 13 through 18, 23, 25 and 26 have been objected to. The remaining claims, 1 through 4, 9 through 12, 19 through 22 and 24 have been rejected. As a result of the amendment set for above, claims 2 through 4, 10 through 13 and 25 have been cancelled. Claims 1, 9, 19, 24 and 27 are in independent form.

The drawings have been objected to because the bar set forth in claims 14 and 15 is not shown. The bar is described in the specification and claimed. Figure 1 has been amended to show the bar in phantom, the correction shown in red. Upon a receipt of a Notice of Allowance, formal drawings will be prepared for this and all the other Figures in the Drawings. No new matter is entered by the addition of the bar in Figure 1 as it is described in the specification.

Claims 1, 2 and 24 are rejected under 35 USC §102(b) as being anticipated by United States Patent 5,671,658, issued to Macasaet on September 30, 1997 ("the '658 reference"). Applicant respectfully traverses this rejection. The '658 reference discloses a cooking device that is designed to cook sandwiches that are mounted on a stick, shown in phantom at 12 in Figure 1. The waffle sandwich making system 10 includes a bottom housing 24 and a top housing 22 that is pivotally mounted to the bottom housing 24. The bottom housing 24 acts as a base and does not move off the surface on which it is placed during operation. Both housings 22, 24 include stick passages 38 that extend from reservoirs out to the front surface of the housings 22, 24 allowing the stick to be placed within the sandwich while the batter is being cooked by the waffle sandwich making system 10.

Claim 2 has been cancelled rendering the rejection thereto moot. Claims 1 and 24 have been amended to clarify the invention. More specifically, claim 1 has been amended to claim a baking assembly having a first heating element, a second heating element, a hinge and a stick retainer. The stick retainer includes a recess for receiving the stick therein. It

includes a mounting frame for securing the stick retainer to the first heating element. The stick retainer also includes a rotating mechanism for rotating the stick and the food item secured thereto about its longitudinal axis after the stick is retained in the recess.

While the '658 reference discloses a baking assembly having two heating elements that are hingedly secured to one another, it does not disclose a stick retainer that has a rotating mechanism for rotating the stick and the food item secured thereto about the longitudinal axis defined by the reservoir. Therefore, claim 1, and all claims depending therefrom, overcome the rejection under 35 USC §102(b) and are in condition for allowance.

Claim 1 has been amended to include the limitations of claims 2, 3 and 4 therein. The Examiner has rejected claims 3 and 4 under 35 USC §103(a) as being unpatentable under the '658 reference in view of United States Patent 1,990,412, issued to Merritt on September 8, 1932 ("the '412 reference"). Applicant respectfully traverses this rejection. The '658 reference is discussed above. The '412 reference discloses a sandwich cooker that has sticks 18 that are pivotally secured to a lower housing 5 by a suitable bearing 22. The bearings are mounted to the lower housing by fastening devices 25, 26. The sticks 18 pivot about an axis defined by the bearings 22 that is perpendicular to the longitudinal axis of the reservoir to which it is associated. Therefore, the sticks 18 do not rotate about the longitudinal axis of the reservoir, but pivot in the same plane as a longitudinal axis defined by the reservoir of the lower housing 5.

Claim 1, as amended to include the elements of claims 3 and 4 claim a stick retainer that allows the sticks to rotate about the longitudinal axis of the reservoir. The sticks do not pivot about a point in the longitudinal axis.

While the '412 reference does disclose sticks that are movable, they are prevented from rotating about the longitudinal axis of the reservoir because the bearings 22 prevent that from happening. Therefore, it is respectfully submitted that claim 1 overcomes the rejection under 35 USC §103(a) and is in condition for allowance.

Claims 9 and 10 have been rejected under 35 USC §102(b) as being anticipated by United States Patent 4,175,483 ("the '483 reference"). Applicant respectfully traverses this rejection.

The '483 reference discloses a donut making appliance having lower base portion 18 and an upper cover portion 16. The upper cover portion pivots about a hinge assembly 20 that is fixedly secured to the lower base portion 18. A central core 36 of the lower grid includes wells or cavities 40. The upper grid defines plungers 42 that compliment the wells 40. The plungers 42 matingly engage the wells 40 forcing batter out therefrom. Recesses 30, 32 are aligned to displace the oil in the wells 40 onto the outer surface of the cooking batter. This forces the oil around the batter to brown the batter as it bakes inside the enclosed donut-making appliance.

Claim 9 as amended to clarify the invention claims a baking assembly having a first heating, a second heating element, a hinge securing the first heating element to the second heating element. The first heating element defines a primary reservoir and a secondary reservoir that is in fluid communication with the primary reservoir. The secondary heating element includes a plurality of extensions that extend into the secondary reservoirs forcing batter that is found in the secondary reservoirs out therefrom such that the batter will surround the food that is being cooked thereby. Claim 9 also includes an aperture defining a channel that a stick is adapted to be secured thereto. Each of the plurality of sticks includes a seal to seal the aperture to prevent batter from flowing out therefrom.

Although the '483 reference discloses a donut making appliance that has batter holding reservoirs and oil holding reservoirs wherein the oil holding reservoirs are collapsed upon the closure of the donut making assembly resulting in the oil being forced into the batter reservoirs, it does not disclose the use of sticks and seals about the sticks to hold the fluid within the reservoirs. Therefore, claim 9, as amended to clarify the invention, overcomes the rejection under 35 USC §102(b) and is in condition for allowance.

Claims 11 and 12 have been rejected under 35 USC §103(a) as being unpatentable over the '483 reference in view of the '658 reference. This rejection thereto is moot because claims 11 and 12 have been cancelled.

Claims 19 through 22 have been rejected under 35 USC §103(a) as being unpatentable over the '658 reference in view of United States Patent 4,967,650, issued to Weigle on November 6, 1990 ("the '650 reference"). Applicant respectfully traverses this rejection. The '658 reference has been discussed above. The '650 reference discloses an appliance for the preparation of waffles. The appliance 10 includes a base or support structure 38, a bottom housing section 14, a middle housing section 16 and a top housing section 18. A hinge assembly 26 includes pivot pins 28 that extend through the hinge assembly 26 along different axes. The top 18 and bottom 14 housing sections are separated from the middle housing section 16 by pivoting the same along the pivot pins 28. When the top 18 and bottom 14 housing section 16 are closed over the middle housing section 16 on either side thereof, it is rotated using a swivel knob assembly 30 disposed on the other side of the hinge assembly 26.

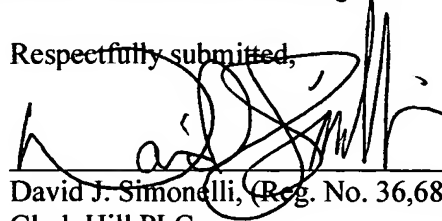
Applicant respectfully submits that the combination of the '658 reference and the '650 reference is improper. Neither reference discloses the teachings of the other, nor does either suggest the combination of the other with regard to the invention disclosed in each of their respective references. In addition, the cooking device disclosed in the '658 reference would not work when incorporating the swivel knob 30 of the '650 reference. More specifically, the swivel knob/hinge combination as disclosed would interfere with the ability to place the sticks along the stick channels of the '658 reference. Because the swivel knob must be along the surface opposite the hinge, the knob would necessarily interfere with the sticks being placed therein. Should it be contemplated that the hinge and the knob be placed on opposite edges of the housing of the '658 reference, the reference would still not work properly because the sticks would prevent the swivel of the housing as contemplated in '650 reference.

Either the sticks would get in the way or the swiveling of the plates would break the sticks off when they collided with the base structure.

Regardless of whether the combination of references is proper, claim 19, as amended to clarify the invention, is not shown in any combination of the '658 reference in view of the '650 reference. Claim 19 claims a baking assembly having a base including a pivot. The heating plate is pivotally connected to the pivot of the base. A second heating plate is pivotally connected to the pivot of the base such that the second heating plate and the first plate pivot about the same pivot. The first and second heating plates are movable independent of each other and they are movable in unison about the same pivot. This prevents the sticks being inserted into the stick retainers from obstructing the ability of the heating plates from pivoting about the hinge. The hinge of claim 19 secured to the plates in the configuration as claimed allows for the wholesale pivoting of the plates about the base without the sticks interfering with the operation. Therefore, the combination of the '658 reference in view of the '650 reference does not disclose nor teach the combination of the baking assembly as claimed in claim 19. Therefore, claim 19 and all claims depending therefrom are in condition for allowance.

It is respectfully submitted that this patent application is in condition for allowance, which allowance is respectfully solicited. If the Examiner has any questions regarding this amendment or patent application, the Examiner is invited to contact the undersigned.

Respectfully submitted,



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**IN THE DRAWINGS:**

A replacement sheet of Figure 1 is enclosed herewith. The replacement sheet includes the addition of the bar that is recited in claims 14 and 15. The bar is shown in phantom, red lines denoting the addition of the bar. Formal drawings for all of the figures will be submitted upon receipt of a Notice of Allowance.